
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

versus

PAUL MICHAEL OLIVER

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CASE NO. 9:21-CR-8

ORDER ADOPTING THE
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Pending is the Defendant, Paul Michael Oliver’s, *Pro Se Motion for Return of Property and Motion for Full Evidentiary Hearing*. (Dkt. #52.) The court referred this motion to United States Magistrate Judge Zack Hawthorn for consideration pursuant to Title 21 U.S.C. § 636(b)(1)(A) and (3) and the Local Rules of The United States District Court for the Eastern District of Texas. On June 14, 2024, Judge Hawthorn entered a report recommending denying the Defendant’s motion. (Dkt. #58.) Oliver’s deadline to file objections was extended, and he filed objections to the magistrate judge’s report on August 12, 2024. (Dkt. #63.)

I.

Oliver objects to Judge Hawthorn’s recommendation on two grounds. First, he argues that he did not have counsel for the state forfeiture proceeding and was unaware that the cash forfeiture for the federal proceedings was separate and distinct from the cash forfeiture in the state proceeding. This objection is without merit. Unlike criminal defendants, respondents in civil forfeiture proceedings do not have the right to court-appointed counsel. *\$1,608.00 In U.S. Currency v. State*, No. 06-14-00084-CV, 2015 WL 1448675, at *1 (Tex. App. Mar. 31, 2015) (“[Defendant] was not entitled to court-appointed counsel in this statutory civil forfeiture

proceeding.”) Moreover, the state civil *Agreed Final Judgment*, which bears Oliver’s signature, unequivocally states that Oliver agreed to forfeit “five thousand six hundred ninety one dollars (\$5,691.00)” that represents “contraband and subject to forfeiture.” (Dkt. #55, p. 13.) In comparison, the amount identified in the federal *Order of Forfeiture* is different—“a sum of money equal to \$5,850,” which represents the amount of money the “defendant *would have* obtained as a result of the drug trafficking offense.” (Dkt. 32, p. 3-4.) Furthermore, the plea agreement in his federal case states:

This agreement is only binding on the United States Attorney’s Office for the Eastern District of Texas and does not bind any other federal, state, or local prosecuting authority. Nothing in this agreement shall be construed to release the defendant from possible related or consequential civil liability to any individual, legal entity, or the United States.

(Dkt. #32, p. 7.) As Judge Hawthorn noted in his report, Oliver made separate agreements in two distinct state and federal cases. The first—to forfeit \$5,961 in his possession at the time of his arrest to Polk County pursuant to Chapter 59 of the Texas Code of Criminal Procedure. The second—to forfeit \$5,850 to the Federal Government, which represents “proceeds [he] *would have* obtained as a result of the drug trafficking offense alleged in County Two of the Indictment.” (Dkt. #32, p. 4) (emphasis added). These agreements are separate and individually enforceable. *See* 21 U.S.C. § 853(a).

II.

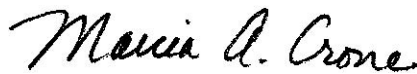
Oliver also claims to have paid the \$100 special assessment via the Bureau of Prison’s Corrlinks Website on October 6, 2023. The court confirmed that a \$100 special assessment payment was posted on November 1, 2023, and a subsequent “overpayment” of \$100 was posted on December 29, 2023. *See* Ex. 1. Accordingly, the Clerk of Court shall reimburse Oliver the \$100 overpayment to his attention, USM #30392-509, at the Federal Correction Institution in Pollock, PO Box 4050, Pollock, Louisiana, 71467.

III.

This court finds that the magistrate judge correctly concluded that the motion should be denied. Accordingly, it is

ORDERED that Defendant's *Objections to Magistrate Judge's Report and Recommendation* (Dkt. #63) are **OVERRULED**, the magistrate judge's report (Dkt. #58) is **ADOPTED**, and the *Pro Se Motion for Return of Property and Motion for Full Evidentiary Hearing* (Dkt. #52) is **DENIED**.

SIGNED at Beaumont, Texas, this 18th day of October, 2024.

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE

Exhibit 1

U.S. Courts
Case Inquiry Report
Case Number: DTXE921CR000008; Party Number: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Case Number DTXE921CR000008 Case Title USA V. OLIVER

Summary Party Information:

Party#	Party Code	Party Name	Account Code	Debt Type	JS Account #	Total Owed	Total Collected	Total Outstanding
001	TXE2448	PAUL MICHAEL OLIVER	TXEA921CR-0000081	SPECIAL PENALTY ASSESSMENT		100.00	100.00	0.00
001	TXE2448	PAUL MICHAEL OLIVER	TXEA921CR-0000081	OVERPAYMENT		100.00	100.00	0.00
						200.00	200.00	0.00

Registry Information:

Depository Code	Depository Name	Account Type	Account Number	Depository Total
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U.S. Courts
Case Inquiry Report
Case Number: DTXE921CR000008; Party Number: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Detailed Party Information:

Party#	Party Code	Party Name
001	TXE2448	PAUL MICHAEL OLIVER

Debt Type SPECIAL PENALTY ASSESSMENT				
	Principal	Interest	Penalty	Total
Fund	504100			N/A
Owed	100.00	0.00	0.00	100.00
Collected	100.00	0.00	0.00	100.00
Outstanding	0.00	0.00	0.00	0.00
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00
Available	100.00	0.00	N/A	100.00

OVERPAYMENT				
	Principal	Interest	Penalty	Total
Fund	6855XX			N/A
Owed	100.00	0.00	0.00	100.00
Collected	100.00	0.00	0.00	100.00
Outstanding	0.00	0.00	0.00	0.00
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00
Available	100.00	0.00	N/A	100.00

Totals				
	Principal	Interest	Penalty	Total
Owed	200.00	0.00	0.00	200.00
Collected	200.00	0.00	0.00	200.00
Outstanding	0.00	0.00	0.00	0.00
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00

U.S. Courts

Case Inquiry Report

Case Number: DTXE921CR000008; Party Number: N/A; Payee Code: N/A

Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Available	200.00	0.00	N/A	200.00
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U.S. Courts
Case Inquiry Report
Case Number: DTXE921CR000008; Party Number: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Transaction Information:

Document Type/Number*	Account Number	Document Date	Debt Type	Accomplished Date	Line Type	Payee Line#	Amount	Party/Payee Name	Doc Actn	Trans Type	Fund
CTC B101023DTXE921CR000008001	DTXE921CR000008-001	07-OCT-23	1	01-NOV-23	PR		100.00	PAUL MICHAEL OLIVER	O	IP3	504100
CQC TXECCA24-00018	DTXE921CR000008-001	07-DEC-23	2	29-DEC-23	PR		100.00	PAUL MICHAEL OLIVER	O	IP2	6855XX

* Document Type Legend

Document Type	Document Type Name
CQC	Cash Receipt - Courts CCA Manual
CTC	Cash Receipt - Courts CCA Automated